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REMARKS

Status of the Claims

Claim 1-5 (Currently Amended)

Claims 6-20 (Previously Presented)

As a result of the foregoing Amendment, the following claims remain pending in the application: 1-20.

Telephone Interview Summary

On April 25, 2005 at 1:00 PM, Carol Stovsky, Applicant's representative, participated in a telephone interview with Examiner Colbert to discuss the present application. Prior to the interview, a proposed response with proposed claim amendments and informal remarks was submitted for Examiner Colbert's consideration.

Claims 1 and 2 and the George and Bern references were discussed. Applicant's representative explained that neither reference was directed to preparation of income tax returns, the use of year-to-date data to estimate an income tax refund, or issuing of a loan to a taxpayer based on an estimated income tax refund. Specifically, Applicant's representative explained that George teaches a mortgage based on the increased value of a home and that Bern teaches a system for managing tax deposits made by companies for payroll, excise, etc. taxes. The Examiner stated that she would consider the claim amendments and remarks. No agreement regarding the proposed claims was reached.

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Claim Objections Under 37 C.F.R. 1.75

Claims 1 and 6-8 have been objected to as being substantial duplicates of claim 2 and 9-11, respectively. Applicant respectfully submits that claim 1 contains an additional element of using expense data in determining a pre year-end tax refund that is not present in claim 2. Although claims 1 and 2 have elements in common, the additional expense data element in claim 1 changes the scope of claim 1 so that it is different than the scope of claim 2. The claims which depend from claims 1 and 2 therefore, are different in scope. Applicant respectfully submits that the difference between the claims is more than a slight difference in wording. Because the claims have a different set of elements and in fact, one claim has an additional element, the claims are directed to different inventions and they are not substantial duplicates. Applicant respectfully requests that the Examiner withdraw the objections.

Title Objection

The title of the invention has been objected to as not being descriptive enough. The Examiner proposes changing the title of the invention to "SYSTEM AND METHOD FOR PROVIDING A LOAN TO A TAXPAYER PRIOR TO A PRE-YEAR END TAX REFUND." Applicant respectfully submits that the proposed title is not accurate as the loan is not provided prior to a pre-year end tax refund. Instead, the loan is based on a pre-year end tax refund. In system and method of the present invention, a pre-year end tax refund is determined first. A loan is then issued to a taxpayer in an amount related to the pre-year end tax refund amount. Applicant therefore proposes the title "SYSTEM AND METHOD FOR PROVIDING A LOAN TO A TAXPAYER BASED ON A PRE YEAR-

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END TAX REFUND." Applicant respectfully submits that the proposed title accurately describes the invention in which a loan is issued to a taxpayer based on the amount of a pre-year end tax refund.

Claim Rejections Under 35 U.S.C. §103(a)

Claims 1, 2, and 4 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over George (U.S. Pat. 5,138,549) in view of Bern (U.S. Pat. 5,138,549). The Office Action states that George teaches historical tax refund data, year-to-date income data, year-to-date expense data, an estimated tax refund amount based on the tax data, and a loan that is provided to a taxpayer prior to the end of a tax year based on the estimated tax refund amount. The Office Action further states that George fails to teach a process in a computer for processing the tax data and estimating a tax refund. The Bern reference is relied on to teach a process for processing the tax data to estimate a tax refund. Finally, the Office Action states that it would have been obvious for one of ordinary skill in the art at the time of the invention to have a process for processing the tax data to determine an estimated tax refund amount.

Applicant respectfully traverses the rejections. The claims have been amended to indicate that while year-to-date data such as year-to-date income data and year-to-date expense data are used to estimate a tax refund for the purposes of issuing a loan, actual data such as actual income data and actual expense data are used to prepare a tax return that is submitted to a taxing authority. Application respectfully submits that the claims as amended have limitations not found in the prior art.

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Applicant respectfully submits the George and Bern references do not provide the teachings suggested by in the Office Action and therefore, cannot be combined to support the rejections of claims 1, 2, and 4. It is suggested George teaches an estimated tax refund amount based on historical tax refund data, year-to-date income data, and year-to-date expense data. However, a careful reading of the George reference indicates that it does not teach or even suggest the use of historical tax refund data, year-to-date income data, or year-to-date expense data to estimate a tax refund amount. Instead, George teaches "assumed annual cost of living increases" applied to a gross income to determine an income estimate that is then used to determine a state and federal tax refund. The tax refund, therefore, is based only on an income estimate that is calculated using assumed cost of living increases. The following passages from George explain how a state and federal refund are determined using an estimated income based on cost of living increases.

Col. 3, ll. 9-12:	The borrower information typically includes <i>gross income</i> , total debts, income tax filing status, credit rating, <i>assumed annual cost of living increases</i> , and total assets. (Emphasis added)
Col. 4, ll. 21-27: Col. 5, ll. 22-28:	Within the annual loop, the system estimates and updates an appreciated home value ... and <i>estimates a cost of living increase for income The new income estimate is used to determine the appropriate state and federal tax tables ... to help determine the state and federal tax refund</i> (Emphasis added)
Col. 4, ll. 36-39:	The system initially estimates new borrower information in processing block 26, based upon <i>cost of living increases added to gross income</i> during the original loan, along with a new home value based on estimated appreciation. (Emphasis added)

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As the cited passages indicate very clearly, an income estimate based on an annual cost of living increase is used to determine a tax refund. Applicant respectfully submits therefore, that George does not teach or even suggest using any year-to-date data such as year-to-date income data or year-to-date expense data or using historical tax refund data for any purpose including estimating a tax refund. Because the George reference does not provide the teaching asserted in the Office Action and because the pending claims have limitations not present in the prior art, Applicant respectfully submits that the George reference cannot support the present rejections.

Applicant respectfully submits that the George reference is also deficient with respect to teaching a loan related to a tax refund. The only loan taught by George is a home mortgage. As stated in Col. 4, ll. 36-46, "[t]he system initially estimates new borrower information in processing block 26, based upon cost of living increases added to gross income during the original loan, along with *a new home value based upon estimated appreciation*. New loan criteria are entered in block 27 to help determine a refinancing and cash-out amount for the new loan in processing block 28. The refinancing amount is typically 80% of the home value and the cash-out amount is the refinancing amount less the balance owed from the original loan and any other associated closing costs." As the cited passage as well as the title of the patent--*System and Method for Funding a Home Investment Trust*--indicates, the loan is a home mortgage that is based on the value of the home. It is not a loan related in any way to a tax refund. Once again, because the George reference does not provide the teaching asserted in the Office Action, Applicant respectfully submits that the George reference cannot support the present rejections.

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Applicant respectfully submits that contrary to the assertion in the Office Action, the Bern reference fails to teach a processor adapted to process historical tax refund data and/or year-to-date data or to teach estimating a tax refund. As Applicant has argued previously, Bern teaches automated recording of tax deposits (employment, corporate, and excise tax payments) as they are made through an automated attendant connected to a processing center. Col. 2, ll. 52-62. The purpose of the invention is to eliminate manual steps that are necessary to make tax deposits which companies, not individuals, must make to comply with governmental regulations. Col. 2, ll. 16-21. The system tracks the amounts of the deposits and the dates when the deposits are made to ensure a company's compliance with governmental regulations. Applicant respectfully submits that the teachings of Bern as they relate to recording dates on which a company makes tax deposits and alerting the company when deposits are due are not in any way relevant to the field of the present invention and that contrary to the assertion, Bern does not teach or even suggest using data of any type to estimate an income tax refund. Applicant respectfully submit that the Bern reference does not contain the teaching suggested in the Office Action, is completely unrelated to income tax return data or tax refunds for individuals, and cannot be combined with the George reference to support the present rejections.

Applicant respectfully submits that neither the George reference nor the Bern reference teaches or even suggests alone or in combination the use of year-to-date income and expense data and historical tax refund data for the purpose of estimating a tax refund prior to the end of the current tax year and issuing a loan based on the tax refund estimate.

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Claims 3, 14, and 16-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over George and Bern in view of Miller (U.S. Pat. 6,202,052). The George reference has been applied for the same reasons cited with respect to claims 1, 2, and 4 except for teaching of present job verification data. The Office Action states Miller teaches present job verification data and that it would be obvious to modify George and Bern to use the job verification data of Miller. Applicant respectfully submits that for the reasons cited above, the George and Bern references do not support the present rejections. Neither George nor Bern teach or even suggest issuing a loan to a taxpayer based on a pre-year end tax refund that is prepared using year-to-date data. Miller teaches only automated preparation of a tax return using actual tax data from various sources. The addition of the Miller reference does not overcome the deficiencies of George and Bern and the references in combination do not teach or even suggest the present invention.

Finally, claims 5-13 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bern in view of George. The Office Action states Bern teaches a loan to a taxpayer prior to the end of the current tax year and an income tax refund amount for a tax year prior to the current tax year. The passages cited in the Office Action—Col. 14, ll. 19-36 and Fig. 5A—refer to “tax deposits” which are payroll taxes paid by corporations to a tax entity. They are not related in any way to income tax refunds for individuals, estimating of income tax refunds, or issuing of loans based on income tax refunds. Applicant further respectfully submits that the cited portions of Bern related to recording of tax deposits (employment, corporate, and excise tax payments) as they are made through an automated attendant do not relate in any way to historical

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income tax refund data for individuals. Applicant respectfully submits that the Bern reference does not teach or even suggest important aspects of Applicant's invention and therefore, cannot be combined with George to support the present rejections.

Applicant respectfully submits that none of the references cited in the Office Action alone or in combination teach or suggest granting of loans to taxpayers prior to the end of the current tax year based on year-to-date information and prior income tax refunds, and therefore, the claims are allowable as written.

Respectfully submitted,

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